

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

JOHN V. FERRIS, et al.,

Case No.: 2:18-cv-00479-APG-BNW

## Plaintiffs

## **Order Denying Motion for Partial Summary Judgment**

V.

WYNN RESORTS LIMITED, et al.,

[ECF No. 314]

## Defendants

8 The defendants move for partial summary judgment on the February 12, 2018 corrective  
9 disclosures. ECF No. 314. The plaintiffs oppose on the merits and request relief under Federal  
10 Rule of Civil Procedure 56(d).<sup>1</sup> ECF Nos. 335; 338. I deny the motion for partial summary  
11 judgment because I grant the plaintiffs' request for relief under Rule 56(d).

12 Rule 56(d) provides that “[i]f a nonmovant shows by affidavit or declaration that, for  
13 specified reasons, it cannot present facts essential to justify its opposition, the court may . . . deny  
14 [the motion and] allow time to obtain affidavits or declarations or to take discovery.” “A party  
15 seeking additional discovery under Rule 56(d) must explain what further discovery would reveal  
16 that is essential to justify its opposition to the motion for summary judgment.” *Stevens v.*  
17 *Corelogic, Inc.*, 899 F.3d 666, 678 (9th Cir. 2018) (simplified). Specifically, the party seeking  
18 relief must state in an affidavit “the specific facts it hopes to elicit from further discovery; the  
19 facts sought exist; and the sought-after facts are essential to oppose summary judgment.” *Id.*  
20 (simplified).

<sup>23</sup> <sup>1</sup> Under Local Rule IC 2-2(b), the plaintiffs should have filed the motion for relief under Rule 56(d) as a separate event. The plaintiffs are advised to comply with the Local Rule in the future.

1 The plaintiffs have provided an affidavit regarding the defendants' alleged deficient  
2 discovery responses and document productions, resulting in the plaintiffs subsequently filing two  
3 motions to compel. ECF Nos. 338-1 at 9-10; 327; 366. The affidavit explains the types of  
4 information the plaintiffs hope to obtain that would bear on issues raised in the motion for  
5 summary judgment, specifically regarding falsity and loss causation. ECF No. 338-1 at 10-17.  
6 Magistrate Judge Weksler recently granted in part one of the plaintiffs' motions to compel. ECF  
7 No. 371. In doing so, she noted that some of the requested discovery is "relevant to falsity,  
8 scienter, and/or loss causation." ECF No. 373 at 9, 12-14. She has set the second motion to  
9 compel for hearing on June 3, 2024. ECF No. 372. That may also result in an order for the  
10 defendants to produce additional materials that could bear on the issues raised in the summary  
11 judgment motion. Consequently, I grant the plaintiffs' request for relief under Rule 56(d) and  
12 deny the defendants' motion for partial summary judgment, without prejudice to refile the  
13 motion no sooner than 30 days after the defendants' compliance with Judge Weksler's order at  
14 ECF No. 373 and with any order she enters in relation to the motion to compel at ECF No. 366.

15 I THEREFORE ORDER that the defendants' motion for partial summary judgment  
16 (**ECF No. 314**) is **DENIED** without prejudice to refile the motion no sooner than 30 days after  
17 the defendants' compliance with Judge Weksler's order at ECF No. 373 and with any order she  
18 enters in relation to the motion to compel at ECF No. 366.

19 DATED this 29th day of May, 2024.



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21 ANDREW P. GORDON  
22 UNITED STATES DISTRICT JUDGE  
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